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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MESDRAIN MORFIN-MUNOZ,

Defendant.

Case No. CR 02-206-2-HA

ORDER FOLLOWING NINTH
CIRCUIT MANDATE

On March 28, 2008, the Ninth Circuit Court of Appeals remanded this case for a determination under *United States v Ameline*, 409 F.3d 1073 (9th Cir. 2005) as to whether the court would have imposed a different sentence if it were aware that the federal sentencing guidelines were advisory and not mandatory. The Court has now reviewed the written submissions of counsel [149, 151].

Defendant pled guilty to Distribution of 500 Grams or More of Methamphetamine. In the presentence report, defendant admitted that he had been distributing methamphetamine for three years. He acknowledged that he normally dealt in multi-ounce quantities and agreed that he had

participate in multi-pound quantity transactions with the confidential informant. This case involved ten pounds of methamphetamine.

Also, as part of this incident, defendant admitted that he had provided marijuana and methamphetamine to two fifteen-year-old females who were present at a residence occupied by defendant when a search warrant was executed.

Defendant has prior convictions for:

- (1) Possession of a Controlled Substance II (Methamphetamine)
June 13, 2000.
- (2) Delivery of a Controlled Substance II (Methamphetamine)
February 1, 2001.

Additionally, in December 2001, defendant was arrested for Delivery and Possession of Methamphetamine. He was accompanied by a seventeen-year-old female who gave a false name to the arresting officers. The matter was dismissed in the interest of justice.

After considering the above and the submissions of counsel, the Court concludes that defendant would not have received a materially different sentence if the sentencing guidelines would have been deemed advisory.

CONCLUSION

The Court finds there is no need for a resentencing.

IT IS SO ORDERED.

Dated this 28 day of April, 2008.


ANCER L. HAGGERTY
CHIEF U. S. DISTRICT COURT JUDGE